

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

WP(C).No. 33141 of 2007(U)

PETITIONER:

SRI.V.P.ABDUL KAREEM,
AGED 54, S/O.KUNJU PAREED, KOLLAMPARAMBIL HOUSE,
NETTOOR, MARADU-682 304, ERNAKULAM.

BY ADV. SRI.T.K.RADHAKRISHNAN
SMT.K.L.SREEDEVI

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, (LSGD), SECRETARIAT,
TRIVANDRUM.
2. THE CHIEF TOWN PLANNER,
TRIVANDRUM.
3. MARADU GRAMA PANCHAYAT REPRESENTED
BY ITS SECRETARY, MARADU-682 304.

BY GOVT. PLEADER SRI. K.J.MOHAMMED ANZARADV.
SRI.S.CHANDRASENAN, SC, MARADY PANCHAYAT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C). NO. 33141 OF 2007

Dated this the 21st day of November, 2007

J U D G M E N T

Petitioner is a resident of the 3rd respondent Panchayat. He owns and possess 9 ½ cents of land in the area of the 3rd respondent Panchayat. 3 ½ cents of land belonging to him was acquired by the Government for widening of National Highway and its approach road vide the proceedings of LAC No.25/93 of Special Tahsildar, N.H No.3, Vyttila.

2. According to the petitioner, he had submitted an application, for getting permission for the construction of a 5 storied building, to the Maradu Grama Panchayat and the Panchayat also sanctioned the same vide order dated 31.3.1997, much prior to the extension of Kerala Municipality Building Rules to the Panchayat. But, unfortunately he could complete only the ground floor and the first floor. Thereafter he filed an application for getting further permission. Even at that time, Kerala Municipality Building Rules had not been made applicable to the Maradu Panchayat. But subsequently, Kerala Municipality Building Rules have been made

applicable. On the ground that the Kerala Municipality Building Rules have been made applicable, the petitioner's application for renewal of permit was rejected. Now the petitioner is desirous of getting the benefits, which are conferred on persons who have made free surrender of land or whose lands have been acquired under the Land Acquisition Act by virtue of Chapter XI of the Kerala Municipality Building Rules. But, he is unable to get the benefits due to the non constitution of the Special committee under rule 85 of KMBR.

3. In this writ petition he submits that the Panchayat has already requested the Government for constitution of the Special Committee under rule 85. He is aggrieved since, till date such a Committee has not been constituted and hence this writ petition seeking inter alia the following prayers:

“(i) To issue a writ of mandamus to call for the records relating to Ext.P4 order and direct the respondents to constitute special committee under Rule 85 of Kerala Municipal Building Rules for implementing Ext.P4 order.

(ii) Issue writ in the nature of mandamus or direction to the 3rd respondent to issue permit to the petitioner for completing the construction of uilding a per approved plan dated 31.3.1997.”

4. Heard Sri. T.K.Radhakrishnan, learned counsel for the

petitioner, Sri. S.Chandrasenan, learned Standing Counsel for the Panchayat and the learned Government Pleader Sri. Mohammed Anzar.

5. My attention was drawn by the counsel to Ext.P7. Ext.P7 shows that the Panchayat has applied to the Government, through the Deputy Directorate of Panchayats, for the constitution of a Special Committee under rule 85. Learned Government Pleader also agrees that the matter is presently pending before the Government. Under these circumstances, the writ petition will stand allowed to the following extent:

The 1st respondent is directed to take an early decision on the request of the 3rd respondent Panchayat for constitution of Special Committee under Rule 85 Chapter XI of the Kerala Municipality Building Rules, i.e. request which is referred to in Ext.P7. A decision as directed above will be taken by the Government at the earliest and at any rate, within six weeks of receiving a copy of this judgment together with a copy this writ petition and all the exhibits.

PIUS C. KURIAKOSE, JUDGE

vps

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